

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: WANG et al.  
  
Title: REDUCING EFFECTS CAUSED BY TRANSMISSION  
CHANNEL ERRORS DURING A STREAMING  
SESSION  
  
Appl. No.: 10/612,401  
  
Filing Date: 7/1/2003  
  
Examiner: Christine T. Duong  
  
Art Unit: 2616  
  
Confirmation Number: 3233

**BRIEF ON APPEAL**

Mail Stop Appeal Brief - Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir/Madam:

This Appeal Brief is being filed in response to a Notice of Panel Decision from Pre-Appeal Brief Review mailed May 2, 2008, rejecting Claims 1-3, 5-7, 9-11, 15-20, and 24-32. The Notice of Panel Decision from Pre-Appeal Brief Review was prepared in response to a Notice of Appeal and Pre-Appeal Brief mailed January 4, 2008. As a result, the submission of this Appeal Brief under the provisions of 37 C.F.R. § 41.37 is timely filed within the one-month period set for the filing of an Appeal Brief. This Appeal Brief is being filed together with a credit card payment form in the amount of \$510.00 covering the 37 C.F.R. 41.20(b)(2) appeal fee. If this fee is deemed to be insufficient, authorization is hereby given to charge any deficiency (or credit any balance) to the undersigned deposit account 19-0741.

Appellants respectfully request reconsideration of the Application.

**REAL PARTY IN INTEREST**

The real party in interest is Spyder Navigations L.L.C., the assignee of record, having a place of business at 1209 Orange Street, Wilmington, Delaware 19801 USA. The assignment to Spyder Navigations L.L.C. was recorded in the records of the United States Patent and Trademark Office at Reel/Frame 019660/0286 on August 7, 2007.

**RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences that will directly affect, be directly affected by, or have a bearing on the present appeal, that are known to Appellants or Appellants' patent representative.

**STATUS OF CLAIMS**

Claims 2, 4, 8, 12-14, 21-23, and 29 have been cancelled. The present appeal is directed to Claims 1, 3, 5-7, 9-11, 15-20, 24-28, and 30-32, all of which stand rejected pursuant to a Final Office Action dated October 5, 2007, and an Advisory Action dated December 27, 2007. Claims 1, 3, 5-7, 9-11, 15-20, 24-28, and 30-32 are being appealed. Claims 1-32 with the appropriate status reference are shown in the attached Claims Appendix.

**STATUS OF AMENDMENTS**

A Final Office Action dated October 5, 2007 was received by Appellants. In an after final response mailed December 5, 2007, Claims 1, 18, 20, and 24-26 were amended to include the elements of Claim 29, which was canceled. As a result, Claims 1, 3, 5-7, 9-11, 15-20, 24-28, and 30-32 were pending in the Application when an Advisory Action dated December 27, 2007, was issued by the Examiner. In the Advisory Action dated December 27, 2007, the amendments canceling Claim 29 and amending Claims 1, 18, 20,

and 24-26 to include the elements of canceled Claim 29 were considered and entered by the Examiner. A Notice of Appeal with a Pre-Appeal Brief was electronically filed with the US Patent and Trademark Office on January 4, 2008. A Notice of Panel Decision from Pre-Appeal Brief Review was mailed May 2, 2008, in which the rejection of Claims 1-3, 5-7, 9-11, 15-20, and 24-32 was maintained. No amendments have been made in the present Application subsequent to receipt of the Advisory Action dated December 27, 2007, in which the amendments to Claims 1, 18, 20, and 24-26 and the cancellation of Claim 29 were considered and entered by the Examiner.

#### **SUMMARY OF CLAIMED SUBJECT MATTER**

Six independent claims, Claims 1, 18, 20, and 24-26, are under appeal. Additionally, dependent claims 10, 28, and 32 are separately argued.

Claim 1 is directed to a method for streaming media from a streaming server to a streaming client via a transmission channel. (Pg. 19, lines 23-25). A first request for media is received from a streaming client at a streaming server. (Pg. 9, lines 20-26; pg. 16, lines 19-24). A response to the received first request is sent from the streaming server to the streaming client. (Pg. 9, line 28-29; Pg. 16, lines 26-28). The response includes a plurality of error resilience levels supportable by the streaming server in sending the media to the streaming client. (Pg. 14, lines 16-22). The plurality of error resilience levels includes a default error resilience level and an alternative error resilience level. (Pg. 14, lines 21-22). A second request is received from the streaming client at the streaming server. (Pg. 16, line 30-pg. 17, line 8). The second request includes an error resilience level selected from the plurality of error resilience levels. (Pg. 16, lines 30-31). The media is sent from the streaming server to the streaming client based on the error resilience level. (Pg. 10, lines 8-9; pg. 19, lines 23-25).

Claim 18 is a means plus function claim as permitted by 35 U.S.C. 112, paragraph 6. Claim 18 is directed to a client device. The system includes receiving means (pg. 21, line 20-pg. 22, line 6; FIG. 7, 175) for receiving streaming media sent from a streaming server to the client device via a transmission channel and for receiving a plurality of error resilience levels supportable by the streaming server in streaming the media to the client device (pg. 14, lines 16-22). The plurality of error resilience levels includes a default error resilience level and an alternative error resilience level. (Pg. 14, lines 21-22). The system further includes detection means for detecting transmission channel errors (pg. 18, lines 18-9; pg. 19, line 1-3; pg. 21, line 24-pg. 22, line 15; FIG. 7, 171). The system also includes sending means (pg. 21, line 20-pg. 22, line 6; FIG. 7, 175) for sending an error resilience selection from the received plurality of error resilience levels to the streaming server (pg. 16, lines 30-31).

Claim 20 is a means plus function claim as permitted by 35 U.S.C. 112, paragraph 6. Claim 20 is directed to a streaming server. The system includes receiving means (pg. 20, lines 26-29; FIG. 5, 155) for receiving a first request for media from a streaming client (pg. 9, lines 20-26; pg. 16, lines 19-24, lines 22-25) and for receiving a second request from the streaming client. (Pg. 16, line 30-pg. 17, line 8). The second request includes an error resilience level selected from a plurality of error resilience levels (pg. 16, lines 30-31), wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level. (Pg. 14, lines 21-22). The system further includes sending means (pg. 20, lines 26-29; FIG. 5, 155) for sending a response to the first request to the streaming client. (Pg. 9, line 28-29; pg. 16, lines 26-28). The response includes the plurality of error resilience levels supportable by the streaming server (pg. 14, lines 16-22) in sending the media to the streaming client and for sending streaming media to the streaming client via a transmission channel based on the error resilience level. (Pg. 10, lines 8-9; pg. 19, lines 23-25).

Claim 24 is directed to a computer-readable medium including computer-readable instructions (pg. 20, line 26-pg. 21, line 11; FIG. 5, 153, 154) that, upon execution by a processor, cause the processor (pg. 20, line 26-pg. 21, line 11; FIG. 5, 151) to stream media to a streaming client via a transmission channel. (Pg. 19, lines 23-25). The instructions are configured to cause a device to: send a response to a first device requesting media (pg. 9, line 28-29; pg. 16, lines 26-28), the response including a plurality of error resilience levels supportable when sending the media to the first device (pg. 14, lines 21-22), wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level (pg. 14, lines 21-22); process a second request received from the first device, the second request including an error resilience level selected from the plurality of error resilience levels (pg. 16, lines 30-31); and send the media to the streaming client based on the error resilience level (pg. 10, lines 8-9; pg. 19, lines 23-25).

Claim 25 is directed to a computer-readable medium including computer-readable instructions (pg. 21, line 30-pg. 22, line 15; FIG. 7, 173, 174) that, upon execution by a processor, cause the processor (pg. 21, line 30-pg. 22, line 15; FIG. 7, 171) to receive streamed media from a streaming server via a transmission channel. (Pg. 10, lines 8-9; pg. 19, lines 23-25). The instructions are configured to cause a device to: send a first request for media to a streaming server (pg. 9, lines 20-26; pg. 16, lines 19-24); receive a response from the streaming server (pg. 16, lines 26-28), the response including a plurality of error resilience levels supportable by the streaming server when sending the media (pg. 14, lines 16-22), wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level (pg. 14, lines 21-22); send a second request to the streaming server (pg. 16, line 30-pg. 17, line 8), the second request including an error resilience level selected from the plurality of error resilience levels (pg. 16, lines 30-31); and receive the media from the streaming server based on the error resilience level (pg. 10, lines 8-9; pg. 19, lines 23-25).

Claim 26 is directed to a method for receiving streamed media from a streaming server via a transmission channel. (Pg. 10, lines 8-9; pg. 19, lines 23-25). A first request for media is sent from a streaming client to a streaming server. (Pg. 9, lines 20-26; pg. 16, lines 19-24). A response is received from the streaming server at the streaming client. (Pg. 16, lines 26-28). The response includes a plurality of error resilience levels supportable by the streaming server when sending the media. (Pg. 14, lines 16-22). The plurality of error resilience levels includes a default error resilience level and an alternative error resilience level. (Pg. 14, lines 21-22). A second request is sent from the streaming client to the streaming server. (pg. 16, line 30-pg. 17, line 8). The second request includes an error resilience level selected from the plurality of error resilience levels. (Pg. 16, lines 30-31). The media is received from the streaming server at the streaming client based on the error resilience level. (Pg. 10, lines 8-9; pg. 19, lines 23-25).

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

Two grounds of rejection are presented for review in this appeal: First, Claims 1, 3, 5, 6, 9-11, 17, 18, 20, and 24-31 were rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent Publication No. 2002/0141740 to Matsui (Matsui). Second, Claims 7, 15, 16, 19, and 32 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Matsui.

## **ARGUMENT**

### **I. LEGAL STANDARDS**

#### **A. Standard under 35 U.S.C. 102(e)**

35 U.S.C. § 102(e) provides that “a person shall be entitled to a patent unless ... the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent.” A prior art reference, as defined by 35 U.S.C. 102, is said to “anticipate” a claimed invention if each and every element of the claimed invention is disclosed, either expressly or inherently, in the prior art reference. *In re Spada*, 911 F.2d 705, 708, 15 U.S.P.Q.2d 1655, 1657 (Fed. Cir. 1990). In deciding the issue of anticipation, one must identify the elements of the claims, determine their meaning in light of the specification and prosecution history, and identify corresponding elements disclosed in the allegedly anticipating reference. *Lindemann Maschinenfabrik v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458, 221 U.S.P.Q. 481, 485-86 (Fed. Cir. 1984).

The Federal Circuit explained the requirements for anticipation in *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983), by stating:

The law of anticipation does not require that the reference “teach” what the subject patent teaches. Assuming that a reference is properly “prior art,” it is only necessary that the claims under attack, as construed by the court, “read on” something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or “fully met” by it.

*Id.* at 772, 218 U.S.P.Q. at 789.

Extrinsic evidence from those skilled in the art can be used to explain, but not to expand the meaning of a disclosed element in that single prior art reference, to determine whether the reference anticipates the claims at issue. *In re Baxter Travenol Labs.*, 952 F.2d 388, 21 U.S.P.Q.2d 1281 (Fed. Cir. 1991).

**B. Standard under 35 U.S.C. 103(a)**

35 U.S.C. 103(a) states:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The legal standards under 35 U.S.C. 103(a) are well-settled. Obviousness under 35 U.S.C. 103(a) involves four factual inquiries: (1) the scope and content of the prior art; (2) the differences between the claims and the prior art; (3) the level of ordinary skill in the pertinent art; and (4) secondary considerations, if any, of nonobviousness. See *Graham v. John Deere Co.*, 383 U.S. 1 (1966).

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art. *In re Piasecki*, 745 F.2d 1468, 1471-72 (Fed. Cir. 1984).

According to M.P.E.P. § 706.02(j),

35 U.S.C. 103 authorizes a rejection where, to meet the claim, it is necessary to modify a single reference or to combine it with one or more other references. After indicating that the rejection is under 35 U.S.C. 103, the examiner should set forth in the Office action:

(A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,

(B) the difference or differences in the claim over the applied reference(s),

(C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and

(D) an explanation >as to< why >the claimed invention would have been obvious to< one of ordinary skill in the art at the time the invention was made\*\*.

**\*\* "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).**

**II. REJECTION OF CLAIMS 1, 3, 5, 6, 9-11, 17, 18, 20, and 24-31 UNDER 35 U.S.C. 102(e)**

In section 1 of the Final Office Action, Claims 1, 3, 5, 6, 9-11, 17, 18, 20, and 24-31 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2002/0141740 to Matsui (Matsui). For the reasons given below, Appellants submit that the Examiner's rejection of Claims 1, 3, 5, 6, 9-11, 17, 18, 20, and 24-31 is improper and should be reversed. Appellants further wish to point out that Matsui was both filed (March 29, 2002) and published (October 3, 2002) before the filing date of the present application (July 1, 2003). As a result, to the extent Matsui is prior art to the present application, Matsui is prior art under 35 U.S.C. § 102(a).

**A. Claims 1, 3, 5, 6, 9, 11, 17, 18, 20, and 24-27, and 29-31**

Independent Claim 1, with emphasis added through underlining, recites in part:

sending a response to the received first request from the streaming server to the streaming client, the response including a plurality of error resilience levels supportable by the streaming server in sending the media to the streaming client, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level;

Independent Claim 18, with emphasis added through underlining, recites in part:

receiving means for receiving streaming media sent from a streaming server to the client device via a transmission channel and for receiving a plurality of error resilience levels

supportable by the streaming server in streaming the media to the client device, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level;

Independent Claim 20, with emphasis added through underlining, recites in part:

receiving means for receiving a first request for media from a streaming client and for receiving a second request from the streaming client, the second request including an error resilience level selected from a plurality of error resilience levels, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level;

Independent Claim 24, with emphasis added through underlining, recites in part:

send a response to a first device requesting media, the response including a plurality of error resilience levels supportable when sending the media to the first device, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level;

Independent Claim 25, with emphasis added through underlining, recites in part:

receive a response from the streaming server, the response including a plurality of error resilience levels supportable by the streaming server when sending the media, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level;

Independent Claim 26, with emphasis added through underlining, recites in part:

receiving a response from the streaming server at the streaming client, the response including a plurality of error resilience levels supportable by the streaming server when sending the media, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level

On page 10 of the Final Office Action, the Examiner states that “Matsui discloses the plurality of error resilience levels includes a default error resilience level and

an alternative error resilience level (... [0248]).” Appellants respectfully disagree. At paragraphs [0247]-[0248] cited by the Examiner, with emphasis added through underlining, Matsui states:

While in this second embodiment the user sets the anti-error intensity of the video data to be received first among the plural video data corresponding to the same video sequence and having different anti-error intensities, the anti-error intensity of the video data to be received first may be a default value that is unique to the receiving terminal.

In this case, the receiving terminal **requests** a video stream corresponding to a video element suited to the default value of the anti-error intensity, among the plural video elements 711-714 described in the SMIL file FSD2, and receives this video stream. Thereafter, in the receiving terminal, the video stream being received is switched to a video stream having an appropriate anti-error intensity according to the incidence of error during reception of the video stream.

Thus, the default value is unique to the receiving terminal, and a video stream is requested by the receiving terminal based on the default value that is unique to and known only at the receiving terminal. In fact, Matsui consistently and repeatedly describes the setting of the default value at the receiving terminal and not at the server. (See paras. [0284], [0297], [0298], [0303], [0306], [0312], [0314]). For example, Matsui states that the “audio or text data suited to the anti-error intensity of data to be received, which is set by the user in the receiving terminal or set as a default value of the receiving terminal, is selected from among plural pieces of audio data or text data.” (Para. [0284], with emphasis added through underlining). Additionally, Matsui states that the “the transmission error is equal to or larger than the default value (predetermined value) set in the receiving terminal.” (Para. [0314]). Additionally, none of the video elements 711-714 is identified as having a default error resilience level in the SMIL file. (See Fig. 5(a)). In fact, nowhere does Matsui teach any knowledge of a default value at the server. Instead, the receiving terminal requests the video element suited to the default value which is described

as unique to the receiving terminal. Therefore, Matsui fails to disclose, teach, or suggest describe “sending a response to the received first request **from the streaming server to the streaming client**, the response including a plurality of error resilience levels supportable by the streaming server in sending the media to the streaming client, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level” (with emphasis added through underlining and bolding) as recited in Claim 1, and similarly recited in Claims 18, 20, and 24-26. As taught by Matsui, the streaming client (receiving terminal) requests a stream based on a default value known at the streaming client, but is not provided a default error resilience level by the streaming server.

Thus, Matsui fails to disclose, teach, or suggest all of the elements of at least independent Claims 1, 18, 20, and 24-26. A rejection under 35 U.S.C. 102(e) or 35 U.S.C. 102(a) cannot be properly maintained where the reference used in the rejection does not disclose all of the recited claim elements. Claims 3, 5, 6, 9-11, 17, and 27-31 depend from one of Claims 1, 18, and 20. Therefore, Appellants respectfully request withdrawal of the rejection of Claims 1, 3, 5, 6, 9-11, 17, 18, 20, and 24-31.

**B. Claim 10**

Claim 10 recites:

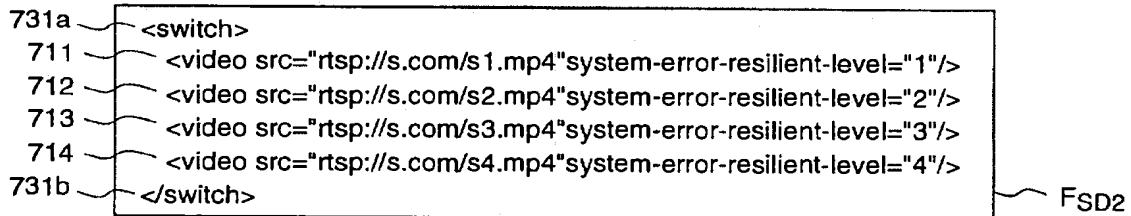
The method of claim 9, wherein said error resilience value is stored in a file format in which said media is stored.

On the Continuation Sheet of the Advisory Office Action, the Examiner states:

Matsui discloses “SMIL file FSD2 shown in Fig. 5(a) which shows four video data files having different anti-error intensities” ([0231] lines 1-3). Therefore, Matsui teaches the error resilience value being stored in a file format in which the media is stored since the anti-error intensities are shown in the SMIL file.

Appellants respectfully disagree.

Fig.5 (a)



The diagram shows a rectangular box representing the SMIL file FSD2. To the left of the box, five labels are connected to specific lines of code by horizontal lines: 731a points to the opening <switch> tag, 711 points to the first <video> tag, 712 points to the second <video> tag, 713 points to the third <video> tag, 714 points to the fourth <video> tag, and 731b points to the closing </switch> tag. The code inside the box is as follows:

```

<switch>
  <video src="rtsp://s.com/s1.mp4"system-error-resilient-level="1"/>
  <video src="rtsp://s.com/s2.mp4"system-error-resilient-level="2"/>
  <video src="rtsp://s.com/s3.mp4"system-error-resilient-level="3"/>
  <video src="rtsp://s.com/s4.mp4"system-error-resilient-level="4"/>
</switch>

```

To the right of the box, a wavy line connects the label FSD2 to the box.

As shown in Fig. 5(a) of Matsui reproduced above, the SMIL file FSD2 is a text file that lists the video source files and a “system-error-resilient-level” associated with each video source file. The SMIL file FSD2 does not contain the video source file. In fact, Matsui further states:

a body element 720a and a /body element 720b declare that the attributes of video data to be reproduced, for example, information indicating the address of the video data (URL), information relating to the coding parameter (the I-frame interval), and the like, are described in the rows positioned between the row including the body element and the row including the /body element.

(Para. [0094], with emphasis added through underlining). Thus, the video source file is not stored in the SMIL file FSD2. The media is stored at the listed URL. For example, the first video data is stored at the URL “rtsp://s.com/s1.mp4” which indicates an “mp4” file format. Again, the SMIL file FSD2 is a text file. Therefore, the SMIL file is **not** “in a file format in which said media is stored” as recited in Claim 10. The “system-error-resilient-level” is stored in the SMIL file as shown in Fig. 5(a). As a result, the “system-error-resilient-level,” as taught by Matsui, is **not** stored in a file format in which said media is stored. To the contrary, the “system-error-resilient-level” is stored in a text file format. Thus, Matsui also fails to teach, suggest, or disclose “said error resilience value is stored in a file format in which said media is stored” as recited in Claim 10. Therefore, Appellants further respectfully request withdrawal of the rejection of Claim 10.

**C. Claim 28**

Claim 28, with emphasis added through underlining, recites:

The method of claim 1, further comprising identifying a media content error resilience level from the media wherein the plurality of error resilience levels includes the identified media content error resilience level.

Matsui states:

The server 100a comprises a data storage unit 120 for holding plural video streams which are obtained by coding digital video signals corresponding to the same video sequence under different coding conditions, and holding SMIL data in which the attributes of the respective video streams are described.

(Para. [0088], with emphasis added through underlining). As discussed above relative to Claim 10, Matsui only describes inclusion of error resilience levels in a SMIL file separate from the media files. (See Figs. 1a and 21a). Relative to the SMIL file format, Matsui states that “[c]haracter strings such as <smil>, </smil>, <body>, </body>, <switch>, </switch>, and <video>, which are described at the beginnings of the respective rows of the SMIL file FSD1, are called ‘elements’, and each element declares the contents of description which follows the element.” (Para. [0092]). The video streams are not described as being stored in a text file format as is the SMIL file. Thus, Matsui also fails to teach, suggest, or disclose “identifying a media content error resilience level from the media” (with emphasis added through underlining) as recited in Claim 28. Therefore, Appellants further respectfully request withdrawal of the rejection of Claim 28.

**III. REJECTION OF CLAIMS 7, 15, 16, 19, and 32 UNDER 35 U.S.C. 103(a)**

In section 2 of the Office Action, Claims 7, 15, 16, 19, and 32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Matsui. For the reasons given below, Appellants submit that the Examiner’s rejection of Claims 7, 15, 16, 19, and 32 is improper and should be reversed.

**A. Claims 7, 15, 16, and 19**

Claims 7, 15, 16, and 19 depend from one of Claims 1 and 18. For the reasons discussed in Section II.A. above, Matsui fails to disclose, teach, or suggest all of the elements of at least independent Claims 1 and 18. Therefore, Appellants respectfully request withdrawal of the rejection of Claims 7, 15, 16, and 19.

**B. Claim 32**

Claim 32, with emphasis added through underlining, recites:

The method of claim 1, further comprising, receiving a third request from the streaming client at the streaming server, the third request including a request to identify a current error resilience level.

On page 15 of the Final Office Action, the Examiner states:

Regarding claim 32, Matsui discloses everything claimed as applied above (see claim 1). However, Matsui fails to specifically disclose that receiving a third request from the streaming client at the streaming server, the third request including a request to identify a current error resilience level, as claimed.

Nevertheless, Matsui teaches "fig. 4(b) explains a mobile terminal 201b for setting the level of anti-error intensity using a slide bar" (Matsui [0138] lines 1-3) and further "in the user operation unit 213 of the mobile terminal 201b, an integral value within a range of 0-100 is calculated as an anti-error intensity level according to the position of the slide bar" (Matsui [0141] lines 1-4).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to receiving a third request identifying a current error resilience level because "the calculated value is held as the anti-error intensity value of the mobile terminal 201b" (Matsui [0144] lines 5-7).

Appellants respectfully disagree.

Matsui states that "FIG. 4(b) is a diagram for explaining a mobile terminal 201b for setting the level of anti-error intensity using a slide bar." (Para. [0138]). Matsui further states:

The anti-error intensity setting screen 22d is a screen on which the user can set a level of anti-error intensity of video data to

be obtained, using a slide bar 22d1. Further, on the anti-error intensity setting screen 22d, a range 22d2 within which the user can move the slide bar in the horizontal direction is displayed, and a left-end position Lp and a right-end position Rp of the slide bar movable range 22d2 are a position designating an anti-error intensity [lowest level] and a position designating an anti-error intensity [highest level], respectively, and an intermediate point Mp between the left-end position Lp and the right-end position Rp is a position designating an anti-error intensity [middle level].

(Para. [0140], with emphasis added through underlining). Thus, Matsui describes selection of the anti-error intensity at the mobile terminal (streaming client). However, Appellants respectfully submit that the recited portion of Matsui, and in fact Matsui in its entirety, fails to provide any teaching whatsoever related to “receiving a third request from the streaming client at the streaming server, the third request including a request to identify a current error resilience level” as recited in Claim 32. As taught by Matsui, the mobile terminal is not requesting identification of an anti-error intensity level, but instead is designating an anti-error intensity level. Thus, Matsui also fails to teach, suggest, or disclose “receiving a third request from the streaming client at the streaming server, the third request including a request to identify a current error resilience level” as recited in Claim 32. Therefore, Appellants further respectfully request withdrawal of the rejection of Claim 32.

**CONCLUSION**

In view of the foregoing discussion and arguments, Appellants respectfully submit that Claims 1, 3, 5, 6, 9-11, 17, 18, 20, and 24-31 are not properly rejected under 35 U.S.C. § 102(e) as being anticipated by Matsui. Appellants further respectfully submit that Claims 7, 15, 16, 19, and 32 are not properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Matsui. Accordingly, Appellants respectfully request that the Board reverse all claim rejections and indicate that a Notice of Allowance respecting all pending claims should be issued.

Respectfully submitted,

Date June 2, 2008

FOLEY & LARDNER LLP  
Customer Number: 23524  
Telephone: (608) 258-4263  
Facsimile: (608) 258-4258

By

A handwritten signature in cursive script, appearing to read 'Callie M. Bell', written over a horizontal line.

Callie M. Bell  
Attorney for Appellant  
Registration No. 54,989

**CLAIMS APPENDIX**

1. (Previously presented) A method for streaming media from a streaming server to a streaming client via a transmission channel, wherein the method comprises:

receiving a first request for media from a streaming client at a streaming server;

sending a response to the received first request from the streaming server to the streaming client, the response including a plurality of error resilience levels supportable by the streaming server in sending the media to the streaming client, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level;

receiving a second request from the streaming client at the streaming server, the second request including an error resilience level selected from the plurality of error resilience levels; and

sending the media from the streaming server to the streaming client based on the error resilience level.

2. (Canceled)

3. (Previously presented) The method of claim 1, wherein said plurality of error resilience levels are defined in accordance with a targeted highest data loss rate or a packet loss rate.

4. (Canceled)

5. (Previously presented) The method of claim 1, wherein the method further comprises:

receiving from the streaming client at the streaming server, a request for a different error resilience level; and

adapting, by the streaming server, the error resilience level of the media sent in accordance with the request.

6. (Previously presented) The method of claim 5, wherein said request is one of the following: a request for a specific error resilience level, an error resilience level increase request, or an error resilience level decrease request.

7. (Previously presented) The method of claim 1, wherein the streaming server receives from the streaming client a RTCP (RTP Control Protocol (Real-Time Streaming Protocol)) report, indicative of transmission channel errors, and wherein the streaming server decides on a different error resilience level based on the RTCP report.

8. (Canceled)

9. (Previously presented) The method of claim 1, wherein the media at the streaming server is associated with an error resilience value indicating a media content error resilience level.

10. (Previously presented) The method of claim 9, wherein said error resilience value is stored in a file format in which said media is stored.

11. (Previously presented) The method of claim 5, wherein error resilience adaptation is performed by switching the streaming server from sending a first generated stream having the error resilience level to sending a second generated stream having the different error resilience level, the different error resilience level differing from the error resilience level.

12. (Canceled)

13. (Canceled)

14. (Canceled)

15. (Previously presented) The method of claim 1, wherein sending the media uses a transmission channel at least partially implemented via a mobile communications network.

16. (Original) The method of claim 15, wherein the streaming server has an IP connection (Internet Protocol) to an IP-based network which is configured to be coupled with the mobile communications network.

17. (Previously presented) The method of claim 1, wherein said media comprises at least one of the following: a video content, an audio content, a still image, graphics, text and speech.

18. (Previously presented) A client device comprising: receiving means for receiving streaming media sent from a streaming server to the client device via a transmission channel and for receiving a plurality of error resilience levels supportable by the streaming server in streaming the media to the client device, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level; detection means for detecting transmission channel errors; and sending means for sending an error resilience selection from the received plurality of error resilience levels to the streaming server.

19. (Original) The client device of claim 18, wherein the client device is a mobile station of a cellular network.

20. (Previously presented) A streaming server comprising:

receiving means for receiving a first request for media from a streaming client and for receiving a second request from the streaming client, the second request including an error resilience level selected from a plurality of error resilience levels, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level; and

sending means for sending a response to the first request to the streaming client, the response including the plurality of error resilience levels supportable by the streaming server in sending the media to the streaming client and for sending streaming media to the streaming client via a transmission channel based on the error resilience level.

21. (Canceled)

22. (Canceled)

23. (Canceled)

24. (Previously presented) A computer-readable medium including computer-readable instructions that, upon execution by a processor, cause the processor to stream media to a streaming client via a transmission channel, the instructions configured to cause a device to:

send a response to a first device requesting media, the response including a plurality of error resilience levels supportable when sending the media to the first device, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level;

process a second request received from the first device, the second request including an error resilience level selected from the plurality of error resilience levels; and

send the media to the streaming client based on the error resilience level.

25. (Previously presented) A computer-readable medium including computer-readable instructions that, upon execution by a processor, cause the processor to receive streamed media from a streaming server via a transmission channel, the instructions configured to cause a device to:

send a first request for media to a streaming server;

receive a response from the streaming server, the response including a plurality of error resilience levels supportable by the streaming server when sending the media, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level;

send a second request to the streaming server, the second request including an error resilience level selected from the plurality of error resilience levels; and

receive the media from the streaming server based on the error resilience level.

26. (Previously presented) A method for receiving streamed media from a streaming server via a transmission channel, the method comprising:

sending a first request for media from a streaming client to a streaming server;

receiving a response from the streaming server at the streaming client, the response including a plurality of error resilience levels supportable by the streaming server when sending the media, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level;

sending a second request from the streaming client to the streaming server, the second request including an error resilience level selected from the plurality of error resilience levels; and

receiving the media from the streaming server at the streaming client based on the error resilience level.

27. (Previously presented) The method of claim 1, wherein the error resilience level is an integer value.

28. (Previously presented) The method of claim 1, further comprising identifying a media content error resilience level from the media wherein the plurality of error resilience levels includes the identified media content error resilience level.

29. (Canceled)

30. (Previously presented) The method of claim 1, further comprising selecting a media stream to send the media from a plurality of media streams based on the error resilience level.

31. (Previously presented) The method of claim 1, further comprising, after sending the media from the streaming server to the streaming client, receiving a third request from the streaming client at the streaming server, the third request including a new error resilience level selected based on an error rate.

32. (Previously presented) The method of claim 1, further comprising, receiving a third request from the streaming client at the streaming server, the third request including a request to identify a current error resilience level.

**EVIDENCE APPENDIX**

Appellants are not relying on any evidence submitted pursuant to 37 C.F.R.  
§§ 1.130, 1.131, or 1.132.

**RELATED PROCEEDINGS APPENDIX**

There are no related proceedings.